



WASHINGTON AVIATION SUMMARY

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The Kirstein & Young law firm specializes in representing U.S. and foreign airlines, airports, leasing companies, financial institutions and aviation-related companies before U.S. Government agencies, Congress, the courts and in commercial and financing matters.

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I. REGULATORY NEWS

1. American Files for Chapter 11 Reorganization.

AMR and subsidiaries American Airlines and American Eagle filed voluntary petitions for Chapter 11 reorganization in the U.S. Bankruptcy Court for the Southern District of New York, and plan “to continue conducting normal business operations while they restructure their debt, costs and other obligations.” The filings have no direct legal impact on American's operations outside the United States. American filed motions seeking interim relief to ensure continuing normal operations, including the ability to provide employee wages and benefits; pay for fuel under existing contracts and honor existing fuel supply, distribution and storage agreements; and assume and honor contracts relating to interline agreements. The company said \$4.1 billion in unrestricted cash, short-term investments and cash generated from operations will “be more than sufficient to assure that its vendors, suppliers and other business partners will be paid timely and in full for goods and services provided during the Chapter 11 process.” Debtor-in-possession financing is not anticipated. . . . Chairman/CEO Gerard Arpey stepped down and was replaced by Thomas Horton, who also will continue to serve as President of AMR and American. “We must address our cost structure, including labor costs,” said Horton. “Our very substantial cost disadvantage compared to our larger competitors, all of which restructured their costs and debt through Chapter 11, has become increasingly untenable given the accelerating impact of global economic uncertainty and resulting revenue instability, volatile and rising fuel prices, and intensifying competitive challenges. We plan to initiate further negotiations with all of our unions to reduce our labor costs to competitive levels.” Arpey, who was with American for 30 years, has joined Emerald Creek Group as a Partner; the Houston-based private equity firm was founded by former Continental Chairman/CEO Larry Kellner. . . . The bankruptcy filing came after Allied Pilots Association rejected the airlines’ latest contract proposals. A tentative agreement was reached with Transport Workers Union for the dispatcher workgroup, after negotiations that began in May 2006. . . . The Pension Benefit Guaranty Corporation (PBGC) said American sponsors four traditional pension plans with \$8.3 billion in assets to cover \$18.5 billion in benefits for 130,000 participants. If American were to end the plans, PBGC would be responsible for paying \$17 billion in benefits; about \$1 billion in benefits would be lost. PBGC has a record \$26 billion deficit as a result of failed plans already assumed; its operations are financed by insurance premiums and with assets and recoveries from failed plans.

2. Global Traffic Results for October.

The International Air Transport Association (IATA) reported that global passenger traffic rose 3.6% in October, over same month 2010, while cargo demand fell by 4.7%. International passenger air travel rose 4.6%, with load factors at 77.6%, down from 79.5%. There was a 1.9% decline for North American carriers; a 6.4% increase for European carriers, with load factor of 80.2% the highest among the regions; 3.8% increase for Asia Pacific carriers; 7.7% increase for Middle East airlines; and 4.2% increase for African carriers. Domestic passenger markets grew by 2% compared to October 2010, as capacity grew 2.4%. India recorded the strongest demand growth at 11%; Brazilian domestic growth slowed to 6.4%, below 15.1% year-to-date. Chinese domestic traffic grew by 8.4% with load factors at 83.1%. The cargo market since mid-year fell almost 5%, compared to a 1% fall in world trade. "Despite the deepening euro-zone crisis European carriers have showed above trend demand growth. With Europe accounting for 29.2% of global air travel, this suggests that the current overall strength in air travel is based on fragile foundations," said Tony Tyler, IATA Director General and CEO. . . . In an address to the International Aviation Club in Washington, Tyler said airlines made a collective \$15.8 billion in 2010, one of the best years ever, but margin was only 2.9%. This year, a \$6.9 billion net profit is expected on revenues of \$594 billion, a margin of just 1.2%. Profits will fall further to \$4.9 billion in 2012 for a 0.8% margin. This year airlines globally will carry 7.6 million people a day. In 2015 that number will increase to nearly 10 million.

3. ATA Sues to Halt U.S. Ex-Im Bank Aircraft Financing to Air India.

The Air Transport Association of America (ATA) filed suit against the U.S. Export-Import Bank to halt a pending transaction for \$3.4 billion in loan guarantees for aircraft financing to Air India. Ex-Im Bank recently approved \$1.3 billion in loan guarantees for Air India and is considering another \$2.1 billion to support Boeing aircraft purchases. ATA said loan guarantees to foreign carriers "fail to comply with specific statutory mandates, including consideration of the impact from such financings on U.S. industry and jobs, and ensuring that the underlying loans have reasonable assurance of repayment. U.S. taxpayers could be left to foot the bill for any default by a foreign carrier on its loans." U.S. loan guarantees enable foreign carriers to obtain financing for aircraft at rates as much as half of what U.S. airlines must pay, said ATA. "Having received more than \$52 billion in U.S. taxpayer-funded loan guarantees over the last 10 years, foreign carriers have added capacity and gained market share. Lower financing costs have allowed foreign airlines to add 12% more capacity on U.S.-international routes than they would have without Ex-Im Bank guarantees." . . . In other news, ATA has changed its name to Airlines for America, with the tagline We Connect the World.

4. FAA FY' 2012 Appropriations Bill Signed.

President Obama signed into law a bill providing \$128 billion for Fiscal Year 2012 for the departments of Agriculture, Commerce, Justice, Transportation and Housing and Urban Development. The \$12.5 billion appropriated for the Federal Aviation Administration (FAA), a \$137 million increase over last year, includes \$9.65 billion for operations, \$2.73 billion for facilities and equipment, \$167.5 million for research and development, \$878 million for NextGen, and \$29.2 million for performance based navigation. The bill funds Essential Air Service at \$144 million, with reform language to limit funds for some communities; limits FAA ability to obligate Airport Improvement Program spending to \$3.35 billion; and orders a progress report to House and Senate Appropriations Committees on establishing special-use airspace for research related to unmanned aerial vehicles. The bill, known as a "minibus," contains a continuing resolution to fund all other federal agencies until December 16.

5. DOT Issues First Fine for Tarmac Delay Rule Violations.

The U.S. Department of Transportation (DOT) fined American Eagle \$900,000 for tarmac delays of more than three hours on 15 flights arriving at Chicago O'Hare on May 29, 2011. This is the first fine for a violation of the rule, which took effect in April 2010, setting a three-hour limit for tarmac delays on domestic flights. It also represents the largest penalty to be paid by an airline in a consumer protection case not involving civil rights violations. Under a settlement with American Eagle, up to \$250,000 of the fine can be credited for refunds, vouchers and mileage awards to passengers on affected flights and on future flights that experience lengthy tarmac delays of less than three hours.

6. Comment Period Extended for Website/Kiosk Accessibility Rule.

DOT granted a 45-day extension, until January 9, for comments on the supplemental notice of proposed rulemaking (SNPRM) on accessibility of websites and automated kiosks. Published September 26, the SNPRM requires U.S. and foreign carriers to ensure their websites and those of their agents are accessible to people with disabilities, and requires U.S. airports and U.S. and foreign air carriers to ensure that new automated kiosks they own, lease, or control at U.S. airports are accessible to people with disabilities.

7. IATA and ATA (A4A) Contest Some Passenger Rights Rules.

IATA and ATA both filed amicus briefs with the Court of Appeals for the DC Circuit in support of the challenge by Allegiant, and Spirit of several new passenger rights rules. IATA contended that the rules could disrupt international air transportation. Both IATA and ATA argued that the full-fare

rule, also challenged by Southwest, which requires airlines to include all taxes and fees in print and web advertised fares is not unfair or deceptive. IATA further argued that the rule potentially applies to non-domestic airline websites that do not undertake technical measures to actively block U.S. computers from access, said IATA, and according to ATA is an unconstitutional restriction of commercial and political speech. IATA joined Spirit and Allegiant in challenging the rule requiring airlines to hold a reservation for 24 hours without penalty or offer a refund if canceled within 24 hours as it could preclude a foreign consumer from completing purchase of a round trip ticket with foreign origin because a U.S. consumer has a seat on hold pending purchase, regardless of whether that purchase is actually completed. ATA also challenges the post-purchase price increase rule, a rule that ATA argues was characterized as preventing increases in the ticket prices after purchase but that the DOT has interpreted as freezing fees for all optional airline services, including on-board food and drink, at the time of ticket purchase.

8. Airlines Seek One-Year Delay For Baggage Fee Rules.

In a joint filing, IATA, ATA and other associations asked DOT to postpone some new baggage fee rules for one year from the planned January 24 execution date. Carriers say they need more time to implement needed technology changes and avoid errors in procedures.

9. American-Qantas JBA Approved.

DOT granted final approval of the American Airlines-Qantas Airways joint business agreement. The airlines said they will begin working on joint strategic planning and management of trans-Pacific services and 'behind and beyond' services within Australia/New Zealand and North America; improvement of flight schedules, frequencies and connection times; joint pricing initiatives and marketing; and increased frequent flyer opportunities.

10. DOT Clears Brussels Airlines' Participation in Star Member JV.

DOT approved application by several Star members to include Brussels Airlines in their transatlantic antitrust immunity, saying Brussels can work with those partners on joint advertising and marketing programs, fares, bids for government and corporate travel accounts, revenue sharing, and the coordination of code sharing and operations for the carriers' international services. The joint venture will provide incremental benefits for consumers in a number of markets, particularly in North America-Africa markets, said DOT.

11. DOT Fines.

DOT fined online ticket agent BusinessJet Class \$40,000 for failing to adequately disclose to consumers when flights were being operated under a

code share arrangement in 2010; the flights were operated by a regional carrier on behalf of a major airline.

FAA Proposes \$180,000 Civil Penalty Against Evergreen.

FAA is proposing a civil penalty of \$180,000 against Oregon-based Evergreen International Airlines, for allegedly operating aircraft on seven flights in 2009 when the pilots on those flights had not been trained in accordance with the airline's approved training program.

12. DOT Air Travel Consumer Report for September.

Based on data filed by the largest U.S. airlines.

	September '11 / '10	August '11	Full Year				
			2010	2009	2008	2007	2006
On-time arrivals %	83.9 / 85.1	79.3	79.8	79.5	76	73.4	75.4
Cancellations %	0.8 / 0.9	2.5	1.76	1.39	1.96	2.16	1.71
Mishandled baggage*	2.81 / 2.83	3.44	3.99	3.91	5.26	7.05	6.73
<i>Consumer complaints:</i>							
Airline service	974 / 756	1,471	10,985	8,821	10,648	13,180	8,325
Disability-related	56 / 40	47	572	519	477	488	430
Discrimination**	15 / 11	12	143	131	115	99	114

Note: Airlines reported three tarmac delays of more than three hours in September. Under a new rule that took effect August 23, foreign airlines also must report lengthy tarmac delays at U.S. airports, and carriers operating international flights may not allow tarmac delays at U.S. airports to last longer than four hours. There were no reports of international flights with tarmac delays of more than four hours between August 23 and September 30.

* Reports per 1,000 passengers.

**I.e., race, religion, national origin or sex.

II. AIRPORTS

1. WestJet, JetBlue Win LaGuardia, National Slots.

DOT conducted an auction for eight pairs of daily slots at Washington Reagan National and 16 at New York LaGuardia, under terms of a decision that allows Delta and US Airways to exchange some of their operating authorities at the two airports. WestJet announced that it successfully bid for eight slot pairs at LaGuardia. JetBlue is said to have won eight slot pairs at both LaGuardia and National. Only carriers operating fewer than 5% of slots at either airport, with their own aircraft or through a code share agreement, were eligible to bid. The decisions were based on highest bid, with payments going to the divesting carrier.

2. Dulles Rail Project Receives New Funding.

The Commonwealth of Virginia agreed to contribute \$150 million to Phase 2 of the Dulles Silver Line Rail project, which will extend Metro service from Reston, Virginia to eastern Loudoun County via Dulles International Airport. The project also will be eligible for federal assistance under the Transportation Infrastructure Finance and Innovation Act program.

3. BWI \$100 Million Expansion Planned.

A \$100 million renovation of the central section of Baltimore-Washington International Thurgood Marshall Airport is set to begin next year, subject to approval by the Maryland Board of Public Works, with completion expected in summer 2013. As part of the project, BWI will add a connector from the A/B Concourse to Concourse C, eliminating the current problem of passengers having to leave one security perimeter and go through screening again. The airport is funding the renovation via proceeds from landing rights and gate leases and concession, parking and advertising fees.

4. John Wayne Airport Opens New Terminal C.

John Wayne Airport opened its new \$543 million Terminal C, which adds 282,000 square feet to existing space and includes six new bridged aircraft gates, two new commuter terminals, five additional security checkpoints and a new 2,000-space parking structure. The airport is owned by Orange County, near Los Angeles.

5. \$1.9 Billion Upgrade for Dallas/Fort Worth.

Dallas/Fort Worth is undergoing a \$1.9 billion renovation of Terminals A, B, C and E, as it prepares for new competition from Dallas Love Field when Wright

Amendment flight restrictions expire in late 2014; final completion is scheduled for 2017. Plans for the international terminal include modifications to accommodate the Airbus A380.

6. £50 Billion Thames Hub Project Proposed.

A four-runway international airport would be part of a £50 billion project proposed by British architects Foster + Partners and others. The airport would be able to handle 150 million passengers a year; Heathrow, Gatwick and Stansted are expected to reach full capacity by 2030. Sited in the Thames estuary, the Thames Hub would also include a freight depot, port, flood barrier and terminus for a four-track high-speed passenger and freight railway that would orbit the north of London before joining main lines to UK destinations. Hong Kong's Chek Lap Kok and Beijing's Terminal 3 are among Lord Foster's transport projects.

7. Russia, Singapore Create Airport Joint Venture.

A joint venture for developing airports for the 2014 Winter Olympics in Russia has been created by Oleg Deripaska's Basic Element investment group (\$500 million), Sberbank (\$120 million) and Changi Airports (\$200 million). Basic Element will hold 50% plus one share in the venture, Changi 30% and Sberbank 20% minus one share. Russia also will host the soccer World Cup in 2018.

8. US Airways Introduces LaGuardia Nonstops to Phoenix.

See Section IX, item 3.

III. **SECURITY AND DATA PRIVACY**

1. **TSA Consumer Complaints Drop Sharply.**

Consumer complaints about the Transportation Security Administration (TSA) were down 59% in September, from a May 2004 peak, reports Bloomberg, possibly because of the agency's new focus on intelligence-based screening. TSA data for September show that, of 51 million airline passengers screened, 222 lodged complaints about courtesy, 39 about screening procedures, 77 about processing time and 326 regarding personal property; of 41 million checked bags, 189 damage claims were received.

2. **EC Adopts Rules on Scanner Use at European Airports.**

The European Commission (EC) adopted a proposal for a legal framework for use of security scanners at European Union (EU) airports, which eliminates the current "patchwork of different national operational procedures and standards." Under the legislation: the scanners shall not store, retain, copy, print or retrieve images; unauthorized access and use of the image is prohibited and shall be prevented; the human reviewer analyzing the image shall be in a separate location and the image shall not be linked to the screened person and others; passengers must be informed about conditions under which the security scanner control takes place and have the right to opt out from a control with scanners and be subject to an alternative method of screening. "It is still for each Member State or airport to decide whether or not to deploy security scanners," said Transport Vice President Siim Kallas, "but these new rules ensure that where this new technology is used it will be covered by EU-wide standards on detection capability as well as strict safeguards to protect health and fundamental rights."

3. **Dutch Customs Deploys Backscatter Van to Scan Airplanes.**

The Dutch Customs Administration will deploy a mobile X-ray screening system to inspect commercial and cargo airplanes. The system scans aircraft in real-time to reveal threats and contraband hidden in the structure that transmission X-rays miss, and provides photo-like imaging for rapid analysis. Another Z Backscatter™ Van is in use at Port of Rotterdam. American Science and Engineering is the supplier.

IV. E-COMMERCE AND TECHNOLOGY

1. Federal Court Dismisses Some Antitrust Claims by AMR.

A U.S. District Court judge in Fort Worth, Texas, dismissed four of five antitrust claims against Travelport brought by American Airlines parent AMR, and similar claims against Sabre Holdings and all claims against Orbitz Worldwide. The judge said AMR's principal antitrust claims can go forward, and gave the airline until December 5 to amend its lawsuit. AMR said its new suit will include claims that Travelport and Sabre monopolize access to its current subscriber base and collude to prevent competition, and that Sabre unlawfully organized a group boycott against American; Travelport and Sabre called the claims "baseless. The Department of Justice is conducting an antitrust probe into Sabre, Travelport and Amadeus.

2. Vayant Releases Airfare Intelligence.

Vayant Travel Technologies released Airfare Intelligence, "a snapshot of future airfares worldwide," which takes customer specific origin and destinations (O&Ds) and calculates total price (base fare, taxes, YQ/YR, CAT12, etc.) on a per carrier basis. The results are pushed to the customer in a choice of formats. "Our unique view of the total priced fare showed significant revenue leakage in the tens of millions range," said Vayant. "Even if a carrier were to recapture 10% of that we are still talking about over \$1 million per year in incremental revenue for a mid-size carrier." All pricing calculations occur outside of an airline's host or a GDS. Vayant provides its products to airlines, meta-search engines, online travel agencies and tour operators.

3. Survey Data Shows Travel Still a Priority for Americans.

Cheapflights.com surveyed its American newsletter subscribers in September and October to gage the importance of holiday travel, given the current state of the economy, and 80% of 8,092 respondents said they have cut back expenses in other areas to protect their travel budget. Most respondents were over 41 years of age (77%) and female (79%); 46% planned to take at least one holiday, with 76% budgeting at least \$500 or more for their trip. Europe was first choice as a holiday destination (36%), then North America (25%), Australasia (14%) and South America (13%). The flight comparison website claims 11 million visitors a month.

V. ENERGY AND ENVIRONMENT

1. Fuel Bill for Global Airline Industry.

The average price of aviation jet fuel, as of November 18, was \$130.4/barrel, up 2.1% on the month and up 34.3% year-on-year, reports the International Air Transport Association. Fuel price average for 2011 was \$127.8/barrel.

2. ICAO Adopts Declaration Against EU Emissions Trading Scheme.

The International Civil Aviation Organization (ICAO) plans to present emission-reduction options as early as January, seeking agreement by the end of 2012 and ratification by September 2013, said Secretary General Raymond Benjamin. Earlier, in a non-binding document adopted in Montreal, ICAO declared that international airlines should be exempt from the European Union Emissions Trading Scheme (EU ETS). In its response, the EU said the decision will affect neither its commitment to work within ICAO on a global solution, nor its decision to include aviation in ETS. Among other comments: IATA said governments see ETS as “a clear infringement of their sovereignty and it’s hard to see how something can be introduced when at least 26 states have come out publicly against it.” Airports Council International said in a resolution that international opposition to the expansion of ETS could lead to a trade conflict. An alternative plan, proposed by EU Parliament Transport Committee Chairman Brian Simpson, would require airlines to pay EU ETS only when they enter EU airspace, reports *Air Transport World*, but the EC rejected the compromise. EU ETS is set to take effect January 1, though U.S. airlines are challenging the law in an EU court, and Congress in October passed a bill prohibiting U.S. carriers to take part in the EU scheme.

3. Continental Flies Commercial Advanced Biofuel Flight.

Continental operated a commercial flight, from Houston to Chicago O'Hare, powered by a blend of sustainable, advanced biofuel and traditional petroleum-derived jet fuel. San Francisco-based Solazyme, working with Honeywell's UOP process technology, developed the algae oil that was refined into jet fuel to power the flight. United has signed a letter of intent with Solazyme to negotiate the purchase of 20 million gallons of jet fuel per year, derived exclusively from algae oil, for delivery as early as 2014.

4. Alaska Airlines Offers 75 Biofuel-Powered Flights.

Alaska Airlines, with Horizon Air, offered biofuel-powered passenger service on 75 flights from Seattle to Washington, D.C. and to Portland, Oregon, using a 20% blend of sustainable biofuel made from used cooking oil. Alaska Air

Group estimates the certified blend reduced greenhouse gas emissions by 10%, and said if it “powered all of its flights with a 20% biofuel blend for one year, the annual emissions savings would represent the equivalent of taking nearly 64,000 cars off the road or providing electricity to 28,000 homes.” The biofuel was made by Dynamic Fuels in Geismar, La.

5. More Residential Sound Insulation Near LAX.

Los Angeles Board of Airport Commissioners awarded a \$1.4 million contract to NSA Construction Group for work undertaken as part of the Los Angeles International Airport (LAX) Residential Soundproofing Program. The contract covers sound-insulation modifications on 57 dwellings. The overall program includes 9,400 residences in Los Angeles communities that have recorded a Community Noise Equivalent Level of 65 decibels or higher. Contractors typically install double-paned windows, solid-core doors, fireplace doors and dampers, attic baffles, insulation and heating-ventilation-air conditioning to achieve a noise-level reduction of one-half in a home’s interior. The 57 dwellings in this project will bring total units completed, under construction or approved by the Board to date to 6,990. The remaining 2,410 units are either in the design phase, awaiting design, or owners have not responded or declined to participate. The program is administered by Los Angeles World Airports’ Residential Soundproofing Bureau.

VI. U.S. CONGRESS

1. Bill Would Require Airlines to Allow One Free Checked Bag.

Legislation that would require airlines to allow passengers one checked and one carry-on bag for free was introduced in the Senate by Mary Landrieu (D-La.). The Airline Passenger BASICS (Basic Airline Standards to Improve Customer Satisfaction) requires airlines to provide one free checked bag within weight limits, and guarantees certain minimum standards for passengers, such as access to potable water and bathroom facilities, as well as the ability to carry on bags and personal items. Landrieu also plans to introduce the Fair Airline Industry Revenue (FAIR) Act, which would increase security fees for any airline that has a policy in place that charges passengers for their first checked bag or their first carry-on bag. Earlier this year, Secretary of Homeland Security Janet Napolitano testified before the Subcommittee on Homeland Security, which Landrieu chairs, that bag check fees have increased TSA screening costs by \$260 million a year. According to TSA, the number of checked bags has decreased by 20% since 2009, leading to increased volume of carry-on bags and longer, slower moving lines at the security checkpoint, said Landrieu, and in a recent survey released by the U.S. Travel Association, 72% of respondents said increased volume of carry-on bags is one of their top frustrations with the flying experience.

2. Legislators Call for TSA Reform.

TSA has strayed from its security mission and mushroomed into a top-heavy bureaucracy of 65,000 employees, which include 3,986 headquarters staff, making \$103,852 per year on average, and 9,656 administrators in the field, and has spent \$57 billion on numerous operational and technology failures, said John Mica (R-Fla.), Chairman of the House Transportation Committee, upon release of a report entitled "A Decade Later: A Call for TSA Reform." Mica said "the vigilance of American citizens and passengers, the actions of flight crews and armed pilots, the addition of hardened cockpit doors, and the assistance of foreign intelligence agencies" are the reasons U.S. aviation is safer today. Mica and other Republicans will introduce legislation to reform TSA.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. U.S.-EU PNR Agreement Initialed.

The United States and the European Union initialed a treaty on the transfer and sharing of passenger name records (PNR), which, if adopted by the European Parliament and EU Member States, will replace a provisional 2007 agreement opposed in Europe due to privacy and other concerns. This “is a legally binding text with stronger rules on police and law enforcement cooperation,” said the EU, under which the Department of Homeland Security (DHS) “will be obliged to share PNR and analytical information obtained from this data with EU law enforcement and judicial authorities to prevent, detect, investigate or prosecute serious transnational crime or terrorist offences.” PNR data of all flights between the EU and the U.S. will be transferred by carriers to DHS. Among provisions of the new agreement: PNR may be used by U.S. authorities for prevention, detection, investigation and prosecution of terrorism and of transnational crimes punishable by three or more years of imprisonment; minor crimes are excluded. PNR will be used to tackle serious crimes, such as drug trafficking, trafficking in human beings and terrorism. To protect privacy, data will be de-personalized six months after received by U.S. authorities; de-personalized data will be moved to a ‘dormant database’ after another five years; total duration of data storage is limited to 10 years for serious transnational crimes; for terrorism only, data will be accessible for 15 years. PNR data must be sent from air carrier databases to U.S. authorities (through a ‘push’ system); DHS will not collect data directly from air carrier reservation systems (through ‘pull’) except in exceptional circumstances. Passenger rights safeguards include: passengers can obtain access to correct and delete their PNR data at DHS and have the right to administrative and judicial redress as provided under U.S. law; DHS and air carriers must provide full information to passengers on use of PNR and ways to exercise their rights. The agreement prohibits adverse decisions from being taken by U.S. authorities only on the basis of automated processing of data—a human being must be involved to address concerns about PNR data being used for illegal profiling. There are strict conditions for use of sensitive data, for example, religion or sexual orientation of passengers. The agreement includes detailed provisions to prevent loss of data or breaches of privacy; all processing of PNR data will be logged for purposes of oversight and auditing, with oversight of DHS by independent bodies, including the U.S. Congress.

VIII. EUROPE AND AFRICA

1. EU Updates List of Banned Carriers.

The European Union added to its list of banned carriers Aeromajestic and Interisland from the Philippines, Rollins Air from Honduras, and carriers which have been certified by the aviation authorities of the Republic of Congo (Equatorial Congo) and the Democratic Republic of Congo. Restrictions were placed on Jordan Aviation, but Russian carriers—VIM AVIA, Yakutia and Tatarstan—and Albanian airlines were omitted from the list after their state authorities adopted “strong measures in order to control and contain any risks to safety of their air carriers flying into the EU.”

2. UK to Increase Air Passenger Duty.

UK Air Passenger Duty (APD) rates will increase by up to 10% from April 2012, and APD will extend to business jet flights from April 2013. UK airline CEOs called for an independent study of APD's economic value and said, in a joint statement: By increasing this tax by double the rate of inflation, the government is further deterring inbound tourism and foreign investment and choking off yet more job opportunities. APD has no international parallel and has already cost the UK economy 25,000 jobs—that is what the Government should focus on.

3. Lufthansa to Sell BMI to IAG.

Lufthansa reached an agreement in principle for the sale of British Midland (BMI) to International Airlines Group (IAG). Virgin Atlantic maintained it remains committed to acquiring BMI, which holds valuable Heathrow slots, saying British Airways' hold over Heathrow is already too dominant and we are very concerned, as the competition authorities should also be, that BA's purchase of BMI would be disastrous for consumer choice and competition. In other news, Lufthansa will freeze all non-essential investment for the next six months, said CEO Christoph Franz, to prevent further reduction of financial flexibility, significantly higher financing costs and a possible loss of investment grade rating. Lufthansa Cargo postponed plans to invest €1 billion in Frankfurt, due to the night-flight ban there.

4. Air France Appoints de Juniac as Chairman/CEO.

Alexandre de Juniac was named Chairman/CEO of Air France, effective immediately. He replaces Jean-Cyril Spinetta, who became interim CEO in October when Pierre-Henri Gourgeon resigned. Spinetta is Chairman/CEO of the Air France-KLM Group.

5. **IAG Update.**

International Airlines Group targeted operating profit of €1.5 billion in 2015, achieved through synergy benefits from year five, structural profit improvements of €400 million and organic growth of €150 million. IAG will invest €7.65 billion over the next four years to upgrade its fleet. An Iberia low-cost subsidiary, Iberia Express, will start operations in March, led by CEO Luis Gallego, a former Vueling executive.

6. **ERA Confronts EU Decision to Liberalize Railways.**

The European Parliament has voted to liberalize freight and passenger rail networks, especially in cross-frontier routes. In response, European Regions Airline Association (ERA) charged that regulators favor high speed rail over other transport modes, and reported that more than €318.7 billion was spent on rail and high-speed projects, compared to €1.34 billion in air infrastructure, out of some €400 billion in trans-European transport spending. In terms of environmental impact, return on investment, competition, and regulatory approaches taken by policy makers for each mode, an ERA study concludes that “the case for rail as the ‘preferred’ mode of transport by policy-makers and transport planners cannot be justified.”

7. **Nigeria Fines British Airways, Virgin Atlantic.**

Nigeria fined British Airways (\$135 million) and Virgin Atlantic (\$100 million), charging them with unfair trade practices relating to ticket prices for flights from Lagos to London Heathrow. Both airlines denied allegations that they colluded over fares and periodically increased passenger fuel surcharges. Nigeria’s Ministry of Aviation is demanding fairer treatment regarding Heathrow slots, as well. A UK-Nigeria bilateral allots 21 weekly frequencies to British and Nigerian airlines, fully utilized by British Airways and Virgin Atlantic. Nigeria’s only carrier, Arik Air, had to rent slots from BMI at up to £90,000 per month and eventually had to abandon the route.

8. **DOT Clears Brussels Airlines’ Participation in Star Member JV.**

See Section I, item 10.

9. **Xiamen to Join SkyTeam.**

See Section IX, item 1.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. Xiamen to Join SkyTeam.

Xiamen Airlines will join SkyTeam, with full entry expected next year. China's sixth largest airline, Xiamen is based in Southeastern China and operates mostly Greater China service from Xiamen, Fuzhou and Hangzhou, with plans to begin serving destinations in Australia, Europe and North America in 2014. SkyTeam member China Southern is a major shareholder.

2. Hawaiian, V Australia to Code Share.

Hawaiian and Virgin Australia's international airline, V Australia, will code share on Hawaiian flights between Sydney and Honolulu, and beyond on connecting island flights in Hawaii, starting December 14. Hawaiian's current five weekly flights to Australia will increase to year-round daily. Separately, Hawaiian will launch daily Airbus A330-200 nonstops to New York Kennedy.

3. JetBlue, Jet Airways to Offer Interline Service.

JetBlue and Jet Airways have a new interline agreement covering travel from JetBlue U.S. destinations to Brussels and onward to India. Jet Airways offers daily nonstops from New York Kennedy and Newark to its European hub in Brussels, with connections to Chennai, Delhi and Mumbai and on to 53 cities in India.

4. Indian Carriers Struggling.

India's Aviation Ministry announced an audit of UB Group-owned Kingfisher and let approval lapse for Airbus A380 purchases, after the Bangalore-based carrier removed ATRs from service and cancelled flights, as it tried to renegotiate leases to help cope with \$1.3 billion in debt and a "significant increase in operating costs caused by increase in fuel prices and rupee devaluation." The airline denied reports that cancellations were due to lack of staff, following attrition of 100 pilots, and said it was complying with vendor credit terms and arrangements. Chairman Vijay Mallya said Kingfisher is focusing on the high end of the market and phasing out its low-fare business. The Indian aviation industry is struggling due to high costs and lower yields," Mallya said. Government officials said Kingfisher, Jet Airways (India) and SpiceJet were in arrears to state-owned fuel suppliers in the third quarter, when Kingfisher's net loss more than doubled from the previous year, and Kingfisher also defaulted on payments to airports. Flag carrier Air India has received government infusions to keep operations going, and plans to sell and lease back Boeing Dreamliners on order, to raise cash.

5. **Record Boeing Order From Indonesia's Lion Air.**

Jakarta-based Lion Air ordered 201 Boeing 737 MAXs and 29 Next-Generation 737-900 ERs, valued at \$21.7 billion, with rights for another 150 airplanes, the largest commercial airplane order in Boeing's history by dollar volume and total number of airplanes. Lion Air officials say they are preparing for regional liberalization, coming in 2015. The budget airline plans to launch a full-service carrier, Space Air, next year.

6. **Singapore Airlines to Launch Budget Carrier.**

Singapore Airlines will launch Scoot next year, offering low-fare Boeing 777-200 service from Changi to Australia and China initially, followed by India, Europe, Africa and the Middle East. The wholly owned subsidiary will offer two cabin classes, with economy fares up to 40% less than full-service carriers. There are plans to hire 52 pilots, 250 flight attendants and 40 ground staff with what officials called "Scootitude."

7. **AirAsia to Launch New Premium Airline.**

AirAsia reportedly will launch premium carrier Caterham Jet next year, with Bombardier CRJ flights from Subang, near Kuala Lumpur, to Bangkok, Jakarta and Singapore. AirAsia CEO Tony Fernandes bought British sports car company Caterham Cars earlier this year.

8. **EI Al Tightens Ops Amid 50% Fall in Q3 Profit.**

EI Al Israel profits fell 50% in third quarter 2011, to \$21 million compared to \$42.5 million in the parallel quarter of last year. The carrier will lay off 200 workers and senior executives agreed to compensation reductions for 2012. Third quarter revenue rose 6% to \$602 million, with cargo revenue up 16%, but average jet fuel cost was 47% higher. In first nine months, EI Al lost \$42 million compared to a \$40.8 million profit in corresponding 2010 period; revenue at \$1.5 billion was up from \$1.4 billion. CEO Elyezer Shkedy said the rise in fuel prices and the global economic crisis have "meant adapting operations and applying efficiency measures to reduce EI Al's expenditure, including optimizing the aircraft fleet and re-examining airline routes and destinations." EI Al cut its Tel Aviv-Sao Paulo and other routes.

9. **Saudi Arabia Separates Aviation From Defense.**

All civil aviation duties and responsibilities in Saudi Arabia will be transferred from the Defense Ministry to the General Authority for Civil Aviation, headed by Prince Fahd bin Abdullah bin Mohammed al-Saud, who also will be Chairman of the Saudi Arabian Airlines board, which will be restructured. The

decree is meant to hasten privatization of the national carrier. Catering, cargo and ground handling services already have been privatized.

10. Emirates to Add Third A380 Service to Heathrow.

Three out of Emirates' five daily flights to Heathrow will be served by the Airbus A380, as of January 24, replacing Boeing 777 service. Emirates has 17 A380s in its fleet of 162 wide-bodied aircraft, and just ordered an additional 50 Boeing 777-300 ERs with 20 options, worth \$26 billion.

11. Arab Air Carrier Organization Delegates Urged to Unite.

In remarks to the 44th annual general meeting of the Arab Air Carriers Organization (AACO), Etihad CEO James Hogan encouraged unity on issues, including opposition to regulations that hamper the ability to compete on a level playing field with rivals, and legislation that penalizes AACO member airlines unfairly such as the EU ETS. AACO Secretary General Abdul Wahab Teffaha defended Middle East carriers against calls for expansion restraint leveled by some non-AACO transport leaders, saying Arab airlines have provided a safety net for manufacturers and created thousands of jobs. IATA's Tony Tyler said the UAE will handle 86.6 million international passengers in 2015, nearly 30 million more than in 2010; the region is a leader in adopting global best practices to prepare for the future.

12. ATA Sues to Halt U.S. Ex-Im Bank Aircraft Financing to Air India.

See Section I, item 3.

13. American-Qantas JBA Approved.

See Section I, item 9.

14. DOT Clears Brussels Airlines' Participation in Star Member JV.

See Section I, item 10.

X. AMERICAS

1. NMB Denies Delta Labor Interference Claims.

The National Mediation Board (NMB) rejected claims of interference filed by the Association of Flight Attendants and the International Association of Machinists and Aerospace Workers, following representation elections by Delta flight attendants and stock clerk and supply attendants. Delta said it would immediately begin the process of aligning pay, benefits, work rules and seniority for these employees. . . . In other news, Delta announced expansion plans for New York Kennedy and LaGuardia, with new daily flights to 11 domestic and Caribbean destinations in 2012. Delta is building an expanded concourse as part of a \$1.2 billion Terminal 4 project at Kennedy, and will invest \$100 million in an expanded main terminal at LaGuardia.

2. Single Operating Certificate Approved for United Continental.

United Continental received FAA approval for a single operating certificate and plans to migrate to a single passenger service system in first quarter 2012. . . . Professional engineers and related employees rejected representation sought by the International Federation of Professional and Technical Engineers, which on June 30 filed a representation application with NMB. United and International Brotherhood of Teamsters (IBT) reached a tentative agreement on a contract for mechanics. Continental mechanics represented by IBT ratified their agreement a year ago. . . . United and Continental will serve new international routes in first half 2012, subject to government approvals, including Washington Dulles to Manchester and Dublin; Los Angeles to Durango, Mexico; and New York Newark to Buenos Aires. Continental will launch the first daily scheduled passenger service between Texas and Africa, with Houston to Lagos, Nigeria nonstops.

3. US Airways Introduces LaGuardia Nonstops to Phoenix.

US Airways on March 10 will launch Airbus A319 nonstops from New York LaGuardia to Phoenix, with the Saturday-only exception to the 1,500 mile perimeter rule. On March 4, US Airways will begin daily year-round Airbus A320 nonstops from Charlotte to Salt Lake City. In other news, as part of its agreement with the union that represents reservations and airport customer service employees, the carrier returned work previously handled outside of the United States to call centers in Winston-Salem, Phoenix and Reno, bringing 400 jobs to those cities.

4. Southwest, AirTran Pilots Ratify Seniority Integration Agreement.

A seniority integration agreement was ratified by Southwest Airlines Pilots' Association (SWAPA) and Air Line Pilots Association (ALPA), which represents AirTran pilots. Integration teams from the 6,000 Southwest and 1,700 AirTran pilots are working on combining the two groups. AirTran operations will cease in June at Knoxville McGhee, Miami, Central Illinois Regional and Charleston Yeager, as well as Washington Dulles where Southwest will continue unaffected. AirTran said it "has a keen focus on aligning its service with customer demand and making capacity available for future opportunities without growing the current fleet." AirTran will add new Denver and Baltimore/Washington routes, nonstops between Ft. Lauderdale and San Juan, Puerto Rico, San Antonio to Cancun and Mexico City, and Orange County to Cabo San Lucas and Mexico City, subject to government approval. Southwest announced daily roundtrips from Houston Hobby to Raleigh-Durham, Kansas City and Seattle.

5. Spirit Signs MOU for 75 Airbus A320s.

Spirit plans to purchase 75 Airbus A320s, including 45 A320neos, in addition to its existing order of 33 aircraft not yet delivered. The non-binding memorandum of understanding with Airbus calls for delivery from 2016 through 2021. "These aircraft will allow Spirit to liberate more cities from their high fares," said Spirit President/CEO Ben Baldanza. Spirit will open a crew base at Las Vegas McCarran in February, with recruitment taking place over the next few months; the carrier will nearly double the number of its pilots and flight attendants. Spirit announced new daily nonstops from Dallas/Fort Worth to New York LaGuardia and Atlanta (February 9), and to Orlando and Boston (March 22).

6. Republic Seeks to Divest Frontier.

Republic Airways confirmed its order for 60 Airbus A320neo and 20 A319neo aircraft, for its Frontier subsidiary. "This order is a confirmation of our confidence that Airbus and the NEO aircraft will be significant contributors to the future growth of Frontier Airlines," said Republic Chairman, President and CEO Bryan Bedford, who also announced plans to sell or spin off Frontier, saying Republic will return to its original business of providing feeder flights. Frontier has slipped to number three in the Denver market, behind United Continental and Southwest, and lost \$90 million in first half this year. In related news, Frontier cut 213 jobs in Milwaukee and plans to cut 120 more. Republic bought Frontier out of bankruptcy in 2009.

7. **Atlantic Southeast, ExpressJet Gain Single Operating Certificate.**
Atlantic Southeast and ExpressJet received FAA approval for a single operating certificate, and as of December 31, “will operate solely as ExpressJet and will be the largest regional airline in the world with more than 400 aircraft operating 2,350 flights each day,” said Brad Rich, President of SkyWest, which acquired ExpressJet a year ago. SkyWest operates flights for Alaska and as United Express and Delta Connection, and as of December 16 will operate as US Airways Express from Phoenix, replacing services currently operated by Mesa. Atlantic Southeast operates as United Express and Delta Connection. ExpressJet operates as Continental Express and United Express.
8. **American Files for Chapter 11 Reorganization.**
See Section I, item 1.
9. **American-Qantas JBA Approved.**
See Section I, item 9.
10. **DOT Clears Brussels Airlines’ Participation in Star Member JV.**
See Section I, item 10.
11. **Xiamen to Join SkyTeam.**
See Section IX, item 1.
12. **Hawaiian, V Australia to Code Share.**
See Section IX, item 2.
13. **JetBlue, Jet Airways to Offer Interline Service.**
See Section IX, item 3.